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SUBJECT: COMMERCE A/S DAVID SPOONER ADDRESSES CONCERNS OVER APPAREL
MONITORING SYSTEM

Ref: USDOC 03281

11. (SBU) Summary: In a much anticipated April 19 visit, Department of Commerce (DOC) Assistant Secretary for Import Administration David Spooner addressed concerns over the U.S. Textile and Apparel Products from Vietnam Monitoring Program with Vietnamese garment and apparel manufacturers, U.S. importers and Government of Vietnam (GVN) officials. The GVN and industry members from both countries stressed that the uncertainty surrounding the monitoring program is having a "chilling effect" on exports to the United States. Consistent with past statements, Trade Minister Tuyen and other GVN officials pressed the Assistant Secretary to abolish the monitoring system, which it considers inconsistent with the WTO principle of non-discrimination. The Assistant Secretary underscored to audiences throughout the day that the U.S. Administration cannot retract its commitment, but is working to develop a fair and transparent monitoring system that does not inhibit legitimate trade. Overall, the Assistant Secretary's visit appears to have eased some of the tension surrounding this sensitive issue, and generated a number of positive articles in the Vietnamese press. End Summary.

U.S. IMPORTERS SEEK MORE CLARITY

12. (SBU) Commerce Department Import Administration Assistant Secretary David Spooner had a series of productive meetings with the

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private sector and Vietnamese government officials in Hanoi on April 19. The purpose of his visit was to address concerns over the U.S. Textile and Apparel Products from Vietnam Monitoring Program with Vietnamese garment and apparel manufacturers, U.S. importers and Government of Vietnam (GVN) officials. During an informal breakfast, an AmCham Apparel Committee meeting and an AmCham luncheon, U.S. importers and retailers explained that uncertainty surrounding the basis for a potential dumping case is affecting their decisions to source further apparel orders in Vietnam.

13. (SBU) Industry representatives asked for more clarity on what would trigger an Administration decision to self-initiate a dumping investigation - a sharp increase in export volume, a rapid decline in per unit prices or some other indicator. They warned that the industry's uneasiness will become evident in the third and fourth quarters of 2007, when a drop in back-to-school and holiday orders will result in lower figures compared with last year. They explained that Vietnam's inexpensive yet high-quality workforce gives it unique advantages over other potential sources, but the risk of a potential dumping case is steering many firms to purchase from less-desirable locations. Some retailers warned that they would likely pull out of Vietnam if "action is taken," while others indicated it would significantly impact their purchases. Pointing

to the fact that a 1989 U.S. textile anti-dumping case against Taiwan "killed the industry" there, all retailers agreed that an anti-dumping case in Vietnam would negatively impact customer confidence on the part of U.S. retailers.

14. (SBU) Assistant Secretary Spooner stressed that DOC is still working to develop the parameters of the monitoring system, but assured industry representatives that no determination or "back room deal" has been made to self-initiate a dumping case. He continued by explaining that U.S. anti-dumping laws are designed to prevent price discrimination (i.e., selling products in the United States for lower prices than in Vietnam), and that rising export volume or falling average prices can occur without dumping. The Import Administration will conduct its first semi-annual review of imports after it has a full six months of data, which it expects will occur in late August or early September. While refusing to speculate on what the data might show, the Assistant Secretary expressed his hope that the review will show no evidence of price discrimination. His office will conduct a broad analysis of the data first, and would only investigate further if the data warrants. For example, a sharp drop in per unit price might cause DOC to review the data more closely, but A/S Spooner affirmed that lower prices would not automatically trigger an investigation.

15. (SBU) The high level of investment and technology required to open a garment factory means that once a company moves its orders from Vietnam to another country, those orders may never come back, industry members cautioned. The Assistant Secretary noted his understanding that capital is highly risk averse, but that part of the concern and reaction by the industry may be due to a lack of familiarity with U.S. anti-dumping laws. There must be both standing and injury to initiate a dumping case, and the leap from monitoring to a dumping investigation was quite large, A/S Spooner said. He urged industry members to work with their Vietnamese partners to minimize the risk of a dumping case by encouraging Vietnamese manufacturers to develop transparent record keeping

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practices. He also encouraged them to provide Commerce with detailed information on what products U.S. firms were sourcing in Vietnam, and how those goods differ from apparel products manufactured in the United States.

16. (SBU) U.S. retailers and importers hold different opinions on MOT's recently-instituted export licensing system, which the Ministry claims to have implemented to lessen the threat of a U.S. anti-dumping case. While some hail the system as an effective way for the GVN to maintain greater visibility and prevent transshipments, others fear that a price-based licensing system will limit their ability to increase sourcing orders in Vietnam in the future. Assistant Secretary Spooner commented that he is not familiar with how the licensing system operates. (Note: In a later meeting, GVN officials explained that the licensing system entails no limitations, it is simply intended to aid data-gathering efforts. The GVN agreed to share this data with DOC via email. End note.) His primary concern, however, is that the system not create additional burdens or requirements which further impede trade. He also noted that the World Trade Organization (WTO) agreement on licensing systems permits the implementation of a licensing regime, but puts forward a number of criteria for such systems, including transparency, objectiveness and predictability.

VIETNAMESE APPAREL PRODUCERS ALSO EXPRESS CONCERNS

17. (U) The Vietnam Textile and Apparel Association (VITAS) organized a briefing attended by more than 60 representatives from the Vietnamese industry. VITAS's opening presentation gave an overview of the domestic industry. In one slide, VITAS showed that apparel exports to the United States have grown from USD 45 million in 2001 to USD 3.18 billion in 2006 (54 percent of total industry exports). VITAS estimated that the figure would further climb to USD 3.8 billion in 2007. Another slide showed that Vietnam ranks 9th in the world in terms of quantity of exports to the United States (with 2.2 percent market share) while it ranks 6th in terms of value (3.65 percent market share). VITAS also provided statistics showing that

the average unit value of garment and apparel exports from Vietnam exceed the world average, and is higher than many other major apparel exporting countries including China, India, Bangladesh and Mexico.

18. (SBU) In his opening remarks, Assistant Secretary Spooner repeated that Commerce is working to develop the mechanism fairly and transparently. He informed the attendees of the April 24 public hearing in Washington, DC and invited all interested parties to submit comments for the hearing, either orally or in writing. Noting the impressive performance of the Vietnamese industry depicted in the VITAS slides, A/S Spooner assured the group that the United States does not want the monitoring system to hinder that growth in any way.

19. (SBU) In the Q&A session, manufacturers asked about the conditions under which Commerce would initiate a dumping case. The Assistant Secretary explained the concept of price discrimination and the fact that increased export volume or falling prices will not automatically trigger an investigation. In response to questions about designation of a surrogate country given Vietnam's non-market economy status, Mr. Spooner said that DOC has not yet chosen one, and if the six month review of import data does not show signs of dumping, Commerce may not need to. In order to account for post-quota natural price drops, a concern raised by attendees, he asked attendees to supply any information they can on anticipated price changes. A/S Spooner also asked for details on the products they are making in Vietnam to determine accurately what products directly compete with U.S.-made goods. On the legality of a monitoring system under the WTO, countries have broad discretion to monitor imports, the Assistant Secretary said, and legal obligations only enter if the United States takes action on that information.

GVN OFFICIALS DECRY MONITORING AS DISCRIMINATORY

10. (SBU) In a roundtable session, officials from the Ministry of Trade (MOT) and Ministry of Foreign Affairs (MFA) pointed to the "chilling effect" the U.S. monitoring mechanism was having on apparel manufacturing in Vietnam and on the sector's ability to attract new domestic and foreign investment. They pressed the Assistant Secretary to revoke the "discriminatory" program as soon as possible. A particular concern is the impact a slowdown will have on the nearly 6 percent of Vietnam's workforce currently employed in this sector, one MOT official noted. Most Vietnamese apparel exports do not directly compete with products manufactured in the United States, and the officials requested that if the

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program is not revoked, the DOC should at least restrict the number of categories that it monitors. On average unit pricing, the GVN noted that after quotas were lifted in 2004, other ASEAN countries experienced a 10 to 30 percent natural price drop due to the removal of quota rent and other factors. MOT officials urged Commerce to consider this when reviewing Vietnamese apparel export data.

11. (SBU) A/S Spooner responded that he understands Vietnam is dissatisfied with this program, but that the U.S. Administration would not rescind its commitment to Senators Dole and Graham to monitor Vietnamese apparel imports. He continued by expressing his interest in working with the GVN to implement the commitment in a transparent manner with as limited an impact on trade as possible. He explained his hope that the first six months of data will show there is no cause to initiate a dumping investigation, but any decision he made would have to be based on what the data showed. He also agreed that the United States wants to limit the number of product categories that it is monitoring to those which directly compete with U.S. made products, and therefore asked Vietnam to provide as much information as possible about the types of products that Vietnam is manufacturing. On the pricing point, Mr. Spooner explained that DOC will take this into consideration when reviewing the data.

MINISTER TUYEN EMPHATICALLY OPPOSES DOC MONITORING

¶12. (SBU) In a later meeting, Minister of Trade Truong Dinh Tuyen delivered a more sharply worded message. The Minister emphatically protested that he was "unwilling to accept the monitoring program." While recognizing that the WTO does not have agreements prohibiting such programs, Minister Tuyen explained that by limiting monitoring activities to only imports from Vietnam, the United States is violating the basic WTO principle of nondiscrimination. In addition to conveying the official GVN message that the DOC should abolish the monitoring program, MOT will continue to "do everything possible to protest" the system, including consider the possibility of bringing the monitoring program before the WTO. Vietnam will cease its protests when the United States either abolishes the program entirely, or expands the program to monitor other countries, Tuyen said.

¶13. (SBU) The Minister continued by explaining that the MOT has instructed all Vietnamese garment and apparel manufacturers not to subsidize production or export products at prices below the domestic level. He repeated the other MOT officials' earlier calls for consideration of a natural price drop in Vietnamese exports this year.

¶14. (SBU) Assistant Secretary Spooner reiterated that the Administration would not back away from its commitment to have the Department of Commerce monitor apparel imports from Vietnam. He committed to work with Vietnam, however, to minimize the impact on trade between the two countries, noting his disappointment that uncertainty surrounding the mechanism has already affected Vietnam's apparel business. The Assistant Secretary recognized that, based on the record of apparel imports from other countries in a post-quota world, it would not be surprising for there to be a natural price drop in apparel imports from Vietnam, and agreed his office would account for this in its review. Stressing the message of transparency and objectivity, A/S Spooner said that anti-dumping reviews are factual investigations conducted in a quasi-judicial process, and determinations will be made without the interference of political pressure.

¶15. (SBU) Minister Tuyen thanked Assistant Secretary Spooner for the recent visit of anti-dumping officials from the DOC Import Administration and also for his personal trip, which will allow the Assistant Secretary to understand Vietnam's concerns first-hand. He closed by saying that A/S Spooner's visit will have a good impact on our bilateral relationship.

A/S SPOONER DELIVERS A MESSAGE ON HUMAN RIGHTS

¶16. (SBU) Assistant Secretary Spooner also raised growing concerns in Washington and the United States about human rights in Vietnam in his meeting with Minister Tuyen.

Comment

¶17. (SBU) Assistant Secretary Spooner's visit has helped to reduce some of the tensions around the highly-sensitive issue of the apparel monitoring system. Industry representatives and GVN officials appreciated the opportunity to express their views

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directly to the Assistant Secretary. His presence in Vietnam also reinforced the message that the United States is actively seeking to work with Vietnam to minimize the negative impact on trade of the monitoring system. A roundtable with Vietnamese reporters resulted in a number of positive press pieces, including Vietnam Investment Review's April 23 article, "DOC Calms Exporters' Nerves," Nhan Dzan's April 20 article, "U.S. Official Says Mechanism On Vietnam's Garments to be Transparent," and Thanh Nien's April 19 article, "Program won't Harm Vietnam Textile Exports, Assures U.S." While the trip did not entirely placate Vietnam's concerns, these articles show that it did help to ease anxieties here. It is also apparent that the main messages of transparency and cooperation came across. End Comment.

118. (U) This cable has been cleared by Assistant Secretary Spooner.

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